IN THE HIGH COURT OF JUDICATURE AT BOMBAY
SIDE JURISDICTION
CRIMINAL APPLICATION NO.727 OF 2006
WITH
CRIMINAL APPLICATION NO.728 OF 2006

Dr.(Smt.) Fajila Irphan Jagral ...Applicant.
V/s.
State of Maharashtra and anr. ...Respondents.

Shri S.R.Chitnis, Sr.Adv. with Shri Nitin Sejpal and Ms.Pooja Bhajane, advocates for the Applicant.

Shri S.B.Keswani with Shri Y.R.Israni, advocates for the Respondent No.2.

Ms.R.M.Gadhvi, APP for the State.

CORAM: J.H.BHATIA, J.
DATE : 28th February, 2007.

P.C.:

1. Heard Mr.Chitnis, the learned senior counsel for the applicant and Mr.Keswani, the learned counsel for the respondent no.2.

2. This is an application filed by the original complainant for cancellation of bail granted to respondent no.2 in Crime No.772 of 2005 registered at Oshiwara Police Station for the offence punishable under Section 498(A) read with Section 34 of the I.P.C. Admittedly, respondent no.2 and the complainant were married on 10-12-2004. They lived together till 20th April, 2005 when the respondent no.2 left India to

resume his job in Saudi Arabia. On 9-12-2005 he came back. On 16-12-2005 the complainant lodged the report with the police. On the next day, the respondent no.2 was arrested and produced before the learned Metropolitan Magistrate. He refused to grant police custody and after taking him in judicial custody granted him bail. According to the complainant, taking into consideration the gravity of the offence, police custody of respondent no.2 was necessary and without custodial interrogation, the case can not be properly investigated and further he has left India again after being released on bail and there is no possibility that he will be available for trial. The learned counsel for the respondent no.2 makes a statement that charge-sheet is not yet filed and the respondent no.2 will certainly appear before the trial Court to face the trial as and when charge-sheet is filed.

3. Allegation of the present complainant is that after marriage, respondent no.2 told her that he could get more beautiful wife but he had married her only on the expectation that he would get some money from her parents to start his own business but that expectation was bellied. After his departure for Saudi Arabia, his brother also made demand of Rs.2 lakhs. From the F.I.R., it is clear that the complainant had left the

matrimonial home within a few days after departure of respondent no.2 for Saudi Arabia as she is serving as a medical officer. Thereafter she never lived with her husband or other in-laws. Taking into consideration, the allegations made by her, custodial interrogation of respondent no.2 is not at all necessary. It is not that the respondent no.2 left India after disputes with the wife. Admittedly even prior to the marriage, he was in service in Saudi Arabia and now also he is serving there. I find no substance in the request for cancellation of bail granted by the Magistrate. In view of the statement made by the learned counsel for respondent no.2 that he will be available to face the trial as and when the charge-sheet is filed, there is no reason to believe that he will not be available.

4. The complainant has also filed Criminal Application No.728 of 2006 for cancellation of anticipatory bail granted to respondent nos.2 to 4, who are her mother-in-law and brothers-in-law in the same offence. Taking into consideration, the nature of the offence, I find no fault in grant of anticipatory bail.

5. In view of the above circumstances, both the applications stand rejected.

(J.H.Bhatia,J.)